

## **REMARKS/ARGUMENTS**

In light of the amendments to the claims presented herein and the following remarks, reexamination and reconsideration of this application, withdrawal of the rejections, and formal notification of the allowability of all claims as presented are earnestly solicited. As detailed in the Office Action mailed August 3, 2007, Claims 1, 9-19, 25-32, and 40-42 are pending, wherein Claims 1, 9-15, 17-19, 25-29, 31, 32, 40, and 42 have been rejected and Claims 16, 30, and 41 have been objected to, but indicated as being allowable if rewritten in independent form. In response to the Office Action, Claims 1, 9, 10, 12, 14, 15, 18, 19, 25-29, 32, and 40 have been amended, without adding any new matter. The Applicants thus submit that the claims now define patentable subject matter over the prior art cited in the Office Action. Accordingly, notice to such effect is requested at the Examiner's earliest convenience.

### **Claim Rejections – 35 U.S.C. §103**

Claims 1, 9, 12-15, 17-19, 25, 27-29, 31, 32, 40, and 42 were rejected as being obvious over U.S. Patent No. 5,614,670 to Nazarian *et al.* in view of U.S. Patent No. 5,952,561 to Jaselskis *et al.* and in further view of U.S. Patent No. 5,445,178 to Feuer. In response, Claims 1, 9, 10, 12, 14, 15, 18, 19, 25-29, 32, and 40 have been amended to recite **a portable single-location measuring device**. Support for such amendments can be found throughout the Specification and the Figures such as, for example, on Page 9, lines 17-28 (i.e. operator placing the measuring device on the pavement in a designated position for measuring sample property), Page 12, lines 17-21, and FIGS. 2, 3, 4A-4C, and 5. As such, no new matter has been added.

In contrast, the Nazarian '670 patent discloses a movable seismic pavement analyzer (SPA) for monitoring conditions associated with pavement deterioration. The SPA comprises **a mobile support unit (trailer)** having at least two pneumatic seismic sources coupled thereto, with an optional tonal head connected to each source to control the frequency input to the pavement. A plurality of transducer-receivers is also coupled to the trailer, including **accelerometers located at five distances from the high-frequency source and geophones located at three distances from the low-frequency source**. The sources and transducers are

lowered to and raised from the pavement by pneumatic cylinders that are controlled by a computer. The computer may be coupled to the trailer, or operated remotely from the trailer. Within the computer are data acquisition hardware, signal conditioning units, feedback control, multiplexer and gain control, and other electronic components.

The Feuer '178 patent discloses moisture sensor devices, systems, and methods of making and using the same. As shown in FIG. 6 of the Feuer '178 patent, data from **a plurality of remote moisture sensor devices 10** are transmitted to the central processing station 76. **The communication transmission link includes a cable 24 coupled to each sensor device 10 and a further cable or bus 78 coupling the cables 24 of a set of sensor devices 10 to a wireless signal transmitting station 80.** The communication link also includes a wireless transmission link between the transmission station 80 and the central processing station 76. More particularly, a first plurality of sensor devices 10 is coupled to a first wireless transmission station 80, and a second plurality of sensor devices 10' is coupled to a second wireless transmission station 80'. Each sensor device 10 or 10' communicates with its respective wireless transmission station 80 or 80' and both wireless transmission stations 80 and 80' communicate with the central processing station 76.

In this regard, the Applicants submit that the Nazarian '670 and Feuer '178 patents, either separately or in combination, **do not** disclose a measuring device that is both **portable** and a **single-location** measuring device. That is, the Specification is replete with examples regarding the measuring device at issue being portable (i.e., a unit that can be carried by an operator). Further, the Specification is directed to a measuring device configured to directly measure the property of the paving-related material at a designated position, whereby the disclosed measuring device is intended to be a single device performing a direct measurement of the property of the paving-related material at a single location. The Nazarian '670 patent, on the other hand, discloses a mobile support unit (trailer) based device that is **not portable**, as now particularly required by amended Claims 1, 18, and 32. Further, the Nazarian '670 patent discloses that the measuring components (i.e., accelerometers located at five distances from the high-frequency source and geophones located at three distances from the low-frequency source) are all spaced apart, and thus **do not form a single-location measuring device**. Similarly, the Feuer '178

patent discloses that a communication transmission link includes a cable 24 coupled to each sensor device 10 and a further cable or bus 78 coupling the cables 24 of *a set of sensor devices* 10 to a wireless signal transmitting station 80. Thus, the Feuer '178 patent **does not** disclose a portable single-location measuring device, as particularly recited in Claims 1, 18, and 32 of the present application.

The Applicants thus submit that one of ordinary skill in the art **could not** have combined the elements of the Nazarian '670 and Feuer '178 patents, since the Nazarian '670 and Feuer '178 patents **do not** disclose elements, or any relation therebetween, directed to a portable single-location measuring device for selectively and directly measuring a property of a paving-related material, as now claimed in Claims 1, 18, and 32. Thus, since elements of Claims 1, 18, and 32 are not disclosed by either of the Nazarian '670 and Feuer '178 patents, one of ordinary skill in the art **would not** have recognized, from the results of the combination of elements of the cited reference, that the systems and methods now claimed in Claims 1, 18, and 32 were predictable. As such, the Applicants thus submit that amended Claims 1, 18, and 32, as well as Claims 9, 12-15, 17, 19, 25, 27-29, 31, 40, and 42 which depend therefrom, are allowable over the Nazarian '670, Jaselskis '561, and Feuer '178 patents cited in the Office Action and, as such, are believed to be in condition for immediate allowance.

### **Conclusion**

In summary, embodiments of the present invention now claimed in amended Claims 1, 18, and 32 **would not** have been predictable to one of ordinary skill in the art when presented with elements, either separately or in combination, of the Nazarian '670 and Feuer '178 patents. Accordingly, in view of these differences between the embodiments of the Applicants' invention and the Nazarian '670 and Feuer '178 patents, it is submitted that the present invention, as defined by the pending claims, is patentable over the prior art cited in the Office Action. As such, Claims 1, 9-19, 25-32, and 40-42 are believed to be in condition for immediate allowance.

In conclusion, for the reasons set forth above, the Applicants submit that all claims now pending are in condition for immediate allowance. Accordingly, notice to such effect is respectfully requested at the Examiner's earliest opportunity.

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It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

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